


Procedure file

Basic information	
COS - Procedure on a strategy paper (historic) 2001/2038(COS)	Procedure completed
Investment services: application of conduct of business rules (Directive 93/22/EEC)	
Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.04 Banks and credit	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		06/11/2000
		PPE-DE KAUPPI Piia-Noora	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs and Internal Market	The committee decided not to give an opinion.	
Council of the European Union European Commission	Commission DG	Commissioner	
	Financial Stability, Financial Services and Capital Markets Union		

Key events			
14/11/2000	Non-legislative basic document published	COM(2000)0722	Summary
28/02/2001	Committee referral announced in Parliament		
22/03/2001	Vote in committee		Summary
22/03/2001	Committee report tabled for plenary	A5-0105/2001	
02/04/2001	Debate in Parliament		
03/04/2001	Decision by Parliament	T5-0170/2001	Summary
03/04/2001	End of procedure in Parliament		
24/01/2002	Final act published in Official Journal		

Technical information	
Procedure reference	2001/2038(COS)

Procedure type	COS - Procedure on a strategy paper (historic)
Procedure subtype	Commission strategy paper
Legal basis	Rules of Procedure EP 142
Stage reached in procedure	Procedure completed
Committee dossier	ECON/5/14366

Documentation gateway

Non-legislative basic document		COM(2000)0722	14/11/2000	EC	Summary
Committee report tabled for plenary, single reading		A5-0105/2001	22/03/2001	EP	
Text adopted by Parliament, single reading		T5-0170/2001 OJ C 021 24.01.2002, p. 0025-0109 E	03/04/2001	EP	Summary

Investment services: application of conduct of business rules (Directive 93/22/EEC)

PURPOSE: to present a Communication from the Commission on the application of conduct of business rules under Article 11 of the Investment Services Directive (93/22/EEC). **CONTENT:** This Communication provides a survey of the way in which Article 11 has been implemented in Member States and provides orientations on how conduct of business rules could be applied so as to facilitate cross-border provisions of service. It suggests how conduct of business protection can be tailored to prevailing market reality and impending changes in the legal environment. The Communication also considers the application of conduct of business rules to branches of investment firms. For a number of reasons, cross-border provision of investment services is unnecessarily complicated and made more costly than necessary by legal uncertainty and overlapping regulatory requirements. Against this background, the Commission suggests that: - with regard to article 11(1), the obligation of Member States to take account of the professional nature of the investor should not be seen as conditional on the prior harmonisation of the content of business protection; - with regard to article 11(2), the general good requires that national supervisory bodies take account of the nature of the investor and their "need for protection" before deciding whether to impose local conduct of business rules. Account must also be taken of the fact that conduct of business regimes in all Member States already offer sufficient and comparable protection to professional investors. Therefore, investment services provided to professional investors could be governed exclusively by the conduct of business rules in force in the country of the service provider ("home country") without prior harmonisation. With respect to retail investors, differences persist between national conduct of business protection: host country authorities may thus impose local business rules for such investors in accordance with Treaty principles and secondary legislation. ?

Investment services: application of conduct of business rules (Directive 93/22/EEC)

The committee adopted the report by Piia-Noora KAUPPI (EPP-ED, FIN) on the Commission communication. While welcoming the paper as a necessary step towards clarifying and modifying the Investment Services Directive (ISD), which had proved a disappointment, the committee regretted that the Commission had not been bolder in pressing for a 'country of origin' approach. It pointed out that the current text of the ISD had led to considerable difficulties of interpretation and implementation and that a number of its articles needed to be reviewed. One of the main stumbling blocks had been the clause designating responsibility for implementing and enforcing the rules to the country where the service was provided. This had caused confusion and led to different interpretations of the rules. As a first step, therefore, the committee favoured moving to a system for cross-border investments based on country of origin where the company offering the service was based. It also wanted to see different rules applying to professional and retail investors, with the former subject to less rigid controls. Moreover, there was a need to review the rules relating to advertising investment services. Here again, the committee advocated that those rules should be based on the country of origin principle but should not be too restrictive. Lastly, it welcomed the recent creation by the Commission of an out-of-court complaints network for financial services (FIN-NET) and hoped that it would become an effective mechanism for the out-of-court resolution of cross-border complaints. ?

Investment services: application of conduct of business rules (Directive 93/22/EEC)

Parliament adopted two resolutions calling for a revision of the 1993 Investment Services Directives with the new legislation relating to cross-border investments to be based on home country supervision. The resolution of Piia-Noora KAUPPI (EPP-ED, FIN) was approved by 406 to 62 with 35 abstentions. MEPs believe a light regulatory regime should apply to professional investors. There was also a call on the Commission to look at the possibility of extending the system to third countries where reciprocity could be available and, with Lamfalussy in mind, MEPs take the view that information to be provided to investors should be indicated in the Commission's legislative proposal. During the debate of the previous night, Commissioner Fritz BOLKESTEIN agreed with the criticisms in Parliament's resolutions and also made in the debate, in the sense that the aims of the single market in investment services had not been achieved by the current legislation which had produced legal uncertainty and not reduced bureaucracy in the sense that it was still necessary to respect different national rules. He agreed on the need to move towards home country supervision and a new approach to promote transparency, integrity and protection for investors. He warned however, that revised legislation would not in itself prevent turbulence on the markets. He promised to consider carefully

Parliament's concerns over the definition of 'professional investors', recognising that the proposed definition would exclude numerous groups, although he did say it was based on the consensus views of national regulators. He also agreed that the procedures of the Lamfalussy report could be applied to the new legislation.?